

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – SEPTEMBER 21, 2005**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Sellers, and Mayor/Chairman Kennedy
Late: Council/Agency Member Grzan (arrived at 6:02 p.m.) and Tate (arrived at 6:03 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Manager/Executive Director Tewes announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	3

2.

PUBLIC EMPLOYEE APPOINTMENT

Authority:	Government Code 54957
Consideration of Appointment:	City Attorney
Attendees:	City Manager, Interim City Attorney, Bob Murray

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:01 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:07 p.m.

CLOSED SESSION ANNOUNCEMENT

City Manager/Executive Director Tewes announced that no reportable action was taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Katherine Soult, a Live Oak High School student, led the Pledge of Allegiance.

PROCLAMATIONS

Mayor Kennedy presented Nathalie Averett with a proclamation declaring the week of September 17-23, 2005 as *Constitution Week*.

PRESENTATIONS

Human Resources Director Fisher announced that the employees of the City of Morgan Hill contributed \$8,400 in cash donations to the American Red Cross for Hurricane Katrina Relief efforts; \$2,500 of this amount being donated from the Police Officers Association (POA), \$2,000 from the Executive Team, and the balance from City employees.

CITY COUNCIL REPORT

Mayor Kennedy reported that he serves as an alternate member to the Valley Transportation Authority (VTA) Board of Directors. He stated that a lot is taking place at the VTA and that it is a time consuming process. He said that a half day workshop was held in San Jose last Friday; proceeded by a three hour policy advisory committee meeting and a two hour city council subcommittee meeting on the VTA's \$20 billion capital improvement program that goes out to the year 2033-2036. He said that this is an extremely ambitious program. He noted that in 2000, voters passed Measure A that earmarked funding for the Bart extension to San Jose and Santa Clara. It also earmarked funding for a number of projects including expansion of Caltrain services, additional light rail, expanded bus service, and expanded funding for the operations and maintenance of all VTA supplied services. With the downturn in the economy after 2001, he indicated that sales tax revenue dropped dramatically. This placed VTA in a tough financial situation; facing a deficit close to \$500,000 as they rely heavily on sales tax funding for operation and maintenance of all VTA projects as well as funding for Measure A projects. This deficit resulted in cuts in bus, light rail and other services. VTA has now balanced their budget and are at a point where they project a slight build up in their reserves. However, there is insufficient funding and that funds are not coming in at the rate expected to proceed with all projects included in Measure A. He stated that there is a proposal put forth by the Silicon Valley Leadership Group, the San Jose Chamber of Commerce, South Bay Labor Council and various other entities, to support additional funding in the

form of a ¼ cent sales tax measure to ensure that the Bart extension to San Jose and Santa Clara is built and move up other Measure A projects such as expanded Caltrain services. The ¼ cent sales tax would include additional funding for restoration and expansion of bus service as well as funding for operation and maintenance. It also includes additional funding for local governments to be used for road and street maintenance for locally serving highways and roads throughout the county. He stated that this proposal would require the approval of a ¼ cent sales tax that is proposed to be placed on the November 2006 ballot. He indicated that at the last Council meeting, the Council agreed to support and send a letter in support of the ¼ cent sales tax and additional funding to move forward with these projects. This letter was delivered to the Chair of the Board of Directors and to the General Manager of VTA, outlining the City's position. He stated that the letter focuses on support for Caltrain services, expanded services, double tracking for reverse commute, and moving up the airport people mover.

Council Member Carr stated that the Public Safety and Community Services Committee, consisting of he and Mayor Pro Tempore Tate, met this evening. One of the items discussed was an update on the skate/BMX park. He indicated that the skate park has reopened with repairs being completed in July 2005. He said that although the park is beyond its expected life span when the facility first opened, staff and the Youth Advisory Committee have worked on maintaining and updating the park in order to keep it open for use. The Committee also reviewed a resolution that will be considered at the League of California Cities annual conference. He stated that the Committee did not endorse said resolution and does not recommend the City support the resolution.

Council Member Sellers, as chair to the Community & Economic Committee, reported that there was an issue raised by a citizen regarding reimbursement for costs that might have been borne in a previous year(s) of development activity in the downtown area. He stated that the Committee reviewed this request and has had discussions with the community about looking at ways of dealing with this issue. He noted that with this year's application, the City was looking at providing resources to assist with downtown applications and is looking at providing housing in the downtown area. He felt the Committee has come up with a solution that would apply to this year's applications, within the parameters already set forth. He felt that it was important to note that the Committee has decided not to look at previous year's funding as part of the solution and has determined not to make any substantive changes. The Committee did not see a reason to bring the issue back to the Council. However, should the Council wish to revisit the request, the Committee would be happy to return with the item at a future meeting date.

CITY MANAGER REPORT

City Manager/Executive Director Tewes indicated that the Mayor/Chairman Kennedy called the regular/special Council/Redevelopment Agency meeting to order as well as a special City Council meeting that includes an item on consent calendar contained in the Council's supplemental materials to provide for emergency sewer line repair. He informed the Council and the public that staff will return with agenda item 20, application ZA-05-06: City of Morgan Hill-Mast Street PUD zoning district, at a subsequent meeting. He indicated that there was a problem with the public notice for this item, and that staff will need to correct it. Therefore, he recommended that the Council not consider item 20 this

evening. Regarding item 27, compensation, he indicated that the Financial Policy Committee will be conducting further review; returning to the Council in a few weeks.

CITY ATTORNEY REPORT

Interim City Attorney Siegel stated that he did not have a report to present this evening.

OTHER REPORTS

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

Rebecca Van Dahlen informed the Council that she sent Council Members an e-mail. She indicated that she and the Mueller family have sustained water damage to their homes, on several occasions, as a result of high water pressure in certain areas in Morgan Hill. She stated that both the Public Utilities Commission (PUC) and the American Water Workers Association state that water pressure above 120 psi is not good engineering and is out of standard with their published materials. She indicated that they have water pressure coming into their homes above 200 psi, and that this has caused considerable damage. She said that in the most recent incident, a portion of her driveway has been damaged because a pipe burst between the meter box and the Muellers' home. She said that it would cost over \$10,000 to repair the damage. In working with the City on this situation, they have discovered that there are policies in affect that do not take care of residents. She felt this has been a known issue by the individuals charged with taking care of the City's water system, and that they are aware that there are homes that receive inordinately high water pressure. She said the City advises homeowners to install water pressure regulators if one has over 120 psi water pressure. She said that they have attempted to proceed with the recommendations of the City; installing water pressure regulators. She said that the last break at her home occurred between the meter and the pressure regulator valve. She stated that there is not much more she can do, as a homeowner, to correct the situation as it is the City who is regulated by the PUC. She said that she and the Muellers have each absorbed over \$10,000 in damages, out of pocket. Further, this does not address what it will do to them insurance-wise. She felt the City needs to resolve the situation so that homeowners are not unknowingly going to suffer from this kind of loss. She felt the proper location/installation of pressure regulators needs to be communicated to citizens. Should the City not take proactive measures, it forces homeowners to try and force the City to correct the problem. She stated that they are willing to absorb what has been lost thus far. However, she wants the City to come forward and correct the problem.

Mayor Kennedy read a statement regarding Family Day; a day to eat dinner with children. He indicated that the day earmarked for this program is Monday, September 26, 2005 and that it is sponsored by the National Center on Addiction and Substance Abuse at Columbia University, Nick at Night and others. He encouraged parents to have dinner with their children, as a family.

City Manager Tewes said that in light of potential litigation, his comments would be brief. He informed the Council that staff and he have had several conversations with the Van Dahlens and Muellers regarding the situation. He said that there are two issues: 1) the claim that may arise out of damage that occurred a couple of weeks ago; and 2) what is the appropriate public policy for operating a water system in a steep hillside area. Regarding the claim, he stated that it is staff's view that it is the responsibility of private property owners to make repairs on their side of the meter. He said that since the time he met with the Muellers and the Van Dahlens, the actual leak had not been uncovered. Therefore, the exact cause of damage was not known. It was indicated that the water pipe lay underneath a driveway that had been initially constructed with decomposed granite, and later asphalted. He stated that it is correct that in the hillside, and in many of the City's pressure zones, there is pressure higher than 120 psi. The municipal code requires that property owners place pressure regulator valves on their side of the meter. He stated that the water in hillside areas begin in a storage reservoir located at the top of the hill, and that the bottom of the water column pressure is higher than further up the hill. He indicated that he has committed to the Muellers and the Van Dahlens to review these issues and report back to them. He indicated that he would make the same commitment to the Council, returning to the Council in a few weeks. He stated that staff will undertake the review of what would be the appropriate policy for operating the water system in difficult areas. He felt that it would be appropriate to refer this matter to the Utilities & Environment Committee to the extent that it may involve changes to the operation of the water system/investment in the system.

Mayor Kennedy requested that staff present the report to the Council's Utilities & Environment Committee before returning to the Council.

No further comments were offered.

City Council Action

Mayor Pro Tempore Tate requested that item 4 be removed from Consent Calendar for a verbal update on the item.

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1-3 and 5-15 as follows:*

1. **AUGUST 2005 FINANCE AND INVESTMENT REPORT - CITY**
 Action: Accepted and **Filed** Report.
2. **COMMITMENT TO ANNEX UNINCORPORATED ISLANDS LOCATED WITHIN THE URBAN SERVICE AREA**
 Action: 1) **Directed** Staff to Prepare Initiation of Two Additional Island Annexations under the Provision of Government Code Section 56375.3 (#16 and #17 on maps); 2) **Requested** that the County Provide the Necessary Mapping, Legal Descriptions, and Surveyor's Reports for the

*Amended List of Islands Identified in the Amended Chart; and 3) **Authorized** Staff, on Behalf of the City Council, to Request Minor Adjustments to the Urban Service Area Boundary and/or Sizes of Identified Islands, as Necessary, to Accommodate Annexation of the Islands in a Manner that is Consistent with LAFCO Regulations and Policies Regarding Annexation of Streets Adjacent to City Lands and Avoidance of Split Lines of Assessment.*

3. **UPDATE OF DESIRABLE INFILL STANDARDS**

***Action:** **Approved** Changes to City Council Policy CP 94-02, Establishing Desirable Infill Standards to Comply with Changes Under Measure C and Section 18.78.070 of the Municipal Code.*

5. **ADOPTION OF SPEED LIMITS IN ACCORDANCE WITH THE NEW ENGINEERING AND TRAFFIC SURVEY – Resolution No. 5944**

***Action:** **Repealed** Resolution No. 5421 and **Adopted** Resolution No. 5944, Dated September 21, 2005, Establishing Speed Limits on City Streets.*

6. **ACCEPTANCE OF BUTTERFIELD BOULEVARD AND SAN PEDRO AVENUE SEWER TRUNK PROJECT**

***Action:** 1) **Accepted** as Complete the Butterfield Boulevard and San Pedro Avenue Sewer Trunk Project in the Final Amount of \$333,455; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*

7. **ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR JASMINE SQUARE – Resolution No. 5945**

***Action:** 1) **Adopted** Resolution No. 5945, Accepting the Public Improvements for the Project Commonly Known as Jasmine Square; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*

8. **AMEND REIMBURSEMENT AGREEMENT FOR UNDERGROUNDING OF OVERHEAD UTILITIES BY SHAW DEVELOPMENT (AKA: SHAW REAL ESTATE, INC.)**

***Action:** 1) **Appropriated** \$9,898 from Unappropriated Underground Utility Fund Balance (350); and 2) **Approved** Amended Reimbursement Agreement, Thereby Approving Reimbursement of \$56,938 to Developer for Undergrounding Overhead Utilities Along the South Side of East Dunne Avenue West of Walnut Grove, Subject to Review and Approval by the City Attorney.*

9. **INDOOR RECREATION CENTER PROJECT – AUGUST CONSTRUCTION PROGRESS REPORT**

***Action:** **Information** only.*

10. **APPROVE FIRST AMENDMENT TO THE SPORTS MANAGEMENT GROUP CONSULTANT AGREEMENT FOR INDOOR RECREATION CENTER**

***Action:** **Authorized** the City Manager to Amend the Sports Management Group's Consultant Agreement for an Additional \$10,000 for Updating Operating and Revenue Analysis, Equipment*

Specification and Drawings and to Assist the Staff in FF&E Procurement; Subject to Review and Approval by the City Attorney.

11. ADOPT ORDINANCE NO. 1737, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1737, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-2 3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A 7.06 ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF BARRETT AVENUE AND SAN RAMON DRIVE (APN 817-33-003) .

12. ADOPT ORDINANCE NO. 1738, NEW SERIES, AS AMENDED

Action: Waived the Reading, and Adopted Ordinance No. 1738, New Series, As Amended, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION, DA-04-05 FOR APPLICATIONS MP-02-22 and MC-04-13: Barrett-Odishoo (APN 817-33-003).

13. ANNEXATION APPLICATION, ANX-01-04: CLAYTON-MERLANO – Resolution No. 5946

Action: Adopted Resolution No. 5946, Approving Annexation, with Corrected Map and Legal Description.

14. FISCAL YEAR 2004-2005 YEAR-END BUDGET AMENDMENTS

Action: Increased Fiscal Year 2004-2005 Budget Appropriations as Shown in Exhibit A.

15. CARRYOVER OF ENCUMBRANCES FROM FISCAL YEAR 2004-2005

Action: Received and Filed.

4. STATUS OF DISCUSSIONS WITH THE NON-PROFIT SPORT GROUPS REGARDING OPERATIONS AND MAINTENANCE OF THE OUTDOOR SPORTS COMPLEX

Assistant to the City Manager Spier informed the Council that a meeting was held on September 15, 2005 that included representatives from the Morgan Hill Youth Sports Alliance and the Morgan Hill Youth Sports League. She said that during the course of the meeting, it was indicated that the Coliseum Recreation Group's (CRG) proposal may not be moving forward. She informed the Council that the Youth Sports League group stated that they need to consider this item further and that they were not sure whether their operating budget could incur the extra cost of the lease of \$80,000-\$150,000 that they were hoping from the CRG. She stated that the Youth Sports Alliance group have indicated that they are interested in putting together a proposal and that they would be holding a board meeting in the next couple of weeks. They have offered to invite everyone to the board meeting. She indicated that the timeline is such that the Youth Sports Alliance is to submit a report by October 20, 2005 and that said

report would be included in the Council's October 26, 2005 agenda packet.

Action: *By consensus, the City Council **Received** the Status Report.*

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Vice-chair Tate and seconded by Agency Member Sellers, the Agency Board unanimously (5-0) **Approved** Consent Calendar Items 16 and 17 as follows:*

16. AUGUST 2005 FINANCE AND INVESTMENT REPORT - RDA

Action: **Accepted** and **Filed** Report.

17. LOAN TO SOUTH COUNTY HOUSING FOR VIA CIOLINO

Action: **Authorized** the Executive Director to do Everything Necessary and Appropriate to Negotiate, Execute and Implement, Subject to Review by Agency Counsel, a Loan Agreement With South County Housing in an Amount Not To Exceed \$50,000 for the Demolition of Commercial Structures at the Southwest Corner of Ciolino Avenue and Monterey Road

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 18 as follows:*

18. MINUTES OF SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF SEPTEMBER 7, 2005

Action: **Approved** the minutes as written.

City Council Action (Continued)

CONSENT CALENDAR:

Council Member Sellers requested that item 19 be removed from the Consent Calendar as he would be recusing himself from this item. He stepped down from the Dais.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Grzan, the City Council, on a 4-0 vote with Council Member Sellers absent, **Approved** Consent Calendar Item 19 as follows:*

19. **PROGRAM SUPPLEMENT AGREEMENT NUMBER M007 FOR FEDERAL-AID PROJECT NUMBER 04-5152: PEDESTRIAN CROSSING IMPROVEMENT PROJECT – Resolution No. 5947**
*Action: 1) **Approved** the Program Supplemental Agreement with Caltrans for the Pedestrian Crossing Improvement Project; and 2) **Adopted** Resolution No. 5947, Designating the City Manager as the City Official Authorized to Sign the Funding Agreement.*

Council Member Sellers resumed his seat on the Dais.

City Council Action

PUBLIC HEARINGS:

20. **ZONING AMENDMENT, ZA-05-06: CITY OF MORGAN HILL-MAST STREET PLANNING UNIT DEVELOPMENT (PUD) DISTRICT AMENDMENT**

City Manager Tewes indicated that it was announced earlier that the Council would not be taking action on this item tonight, and that the item would be rescheduled for a later date. However, he recommended Council open the public hearing on the item.

Mayor Kennedy opened the public hearing.

Sam Laub, owner of the property located at 120 Mast Street, informed the Council that he was also speaking on behalf of the owner of 140 Mast Street. He noted that this item went to the Planning Commission with the wrong date noticed. Therefore, he felt the City has a procedural problem.

Interim City Attorney Siegel indicated that the item has been pulled from the Council's agenda so that a new public notice can be processed to make sure there are no errors in the public notice before the Planning Commission and City Council meetings. It was his belief that a public hearing before the Planning Commission would take place on October 11, 2005.

Mr. Laub informed the Council that he and his wife have been property owners in Morgan Hill since 1978. He indicated that they stuck with the City in tough times and good times. In addition, they were in agreement with the purpose of moving the existing facility out of the downtown area as the City is proposing to increase residential units in the downtown. It was his belief the use was going to be relocated in a wrong area. He felt there may be other appropriate places to locate the use other than the Mast Street area. In particular, movement would produce a structure in excess of twice the average height of buildings in the area. He noted that the Mast Street area has developed nicely and that the City has improved the other side of Church Street; removing older trailers from the area. He does not believe the use would fit in with the neighborhood. In addition, he felt some of the conditions would be difficult for the City to enforce, particularly the travel of heavy trucks on residential streets. Although the City's objectives were good, he did believe that relocation of the use in the Mast Street area was appropriate.

No further comments being offered, the public hearing was closed.

Interim City Attorney Siegel recommended the Council close the public hearing and that Mr. Laub's comments be incorporated into the Planning Commission's October 11 meeting and the City Council meeting minutes to follow thereafter. He indicated that a new notice needs to be prepared. Therefore, this hearing cannot be continued.

Action: *By consensus, the City Council **Took No Action.***

City Council Action

OTHER BUSINESS:

21. CITY OF MORGAN HILL EMERGENCY OPERATIONS PLAN

Lieutenant Sampson presented a brief update on the City's Emergency Operations Plan. He indicated that the Governor ordered September 20 as National Emergency Preparedness Day. He indicated that last February, the City hired a part time Office of Emergency Services Coordinator with training and experience to help set up and focus on the mission of disaster preparedness in the City. He informed the Council that it is the City's mission to facilitate disaster readiness; and to prepare residents, employees, businesses and special districts to minimize or reduce the loss of life, property, and environmental damage that may result from emergencies. He informed the Council that staff tries to accomplish this mission through public education, training and through information exchange with other local, state and regional emergency operation agencies. He indicated that the primary document the City will become familiar with is entitled the Emergency Operations Procedure Manual, once approved by Council. Once the manual is released, staff will provide opportunities for City staff to train and become familiar with the manual. He said that Hurricane Katrina has impacted the City and will cause changes to City operations. He informed the Council that the Emergency Operations Plan works under the incident command system, part of the State Emergency Management System (SEMS) standards. He said that it is the City's goal to provide additional training to first responders, city staff, volunteer disaster service workers, and the community emergency response team (CERT) within the next 6-12 months. He addressed the key aspects of the Plan and what citizens can do to prepare for a disaster.

Council Member Grzan noted that one of the greatest threats to the community is an earthquake. He inquired whether the new police facility would be able to sustain a severe earthquake.

Lieutenant Sampson indicated that the police facility is earthquake rated. He stated that should the facility be unable to sustain a severe earthquake, the City is prepared to set up a mobile emergency operations center. This mobile communication center provides the City with the capability of setting up anywhere in the field. He informed the Council that staff plans to conduct emergency exercises approximately every 3 months. He stated that staff participates in joint exercises with other local jurisdictions in Santa Clara County.

Council Member Grzan felt that any emergency plan should include quantifiable measures that would indicate how prepared the community is, should a disaster occur.

Lieutenant Sampson indicated the City is still early in the process in terms of mitigation, preparedness and response. Staff has not assessed the community's level of readiness and that staff still has some steps to take before being able to assess community preparedness.

Mayor Kennedy stated that he was in office when the City activated the emergency operation center in 1997 when there was flooding in the community. He indicated that the press was calling him and other elected officials to inquire what was taking place. He inquired whether the Plan addresses the role of the Mayor and council members during an emergency.

Lieutenant Sampson indicated that the role of the Mayor and council members is addressed in the Plan. He stated that the Mayor and the Council will have an opportunity to be trained as it is an important role elected officials play.

City Manager Tewes distributed copies of the Council's adopted policies that talks about the role of the City Council. Under the City's Municipal Code, the City Manager is the emergency management officer. However, the City Council has a role to play during an emergency. The Council has official duties to perform in the event it is necessary to declare a state of emergency that must later be confirmed by the City Council. The Council also has important responsibilities on an intergovernmental level; working with other agencies. He confirmed that these duties are set forth in the Plan and is something that staff would like to help train and conduct an exercise with Council members

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** and **Authorized** Distribution and Use of the Morgan Hill 2005 Emergency Operations Plan.*

Council Member Sellers recommended that agenda item 24 be moved up in light of the number of police officers in attendance.

Action: *It was the consensus of the City Council **to consider** Agenda Item 24 at this time.*

24. COMMUNITY ORIENTED POLICING SERVICES (COPS) UNIVERSAL HIRING PROGRAM GRANT

City Manager Tewes indicated that several years ago, the City of Morgan Hill and many other California cities, applied for the opportunity to receive COPS grants, a federal program that would provide financial support to hire additional police officers over and above the existing level of staffing to engage in community problem solving activities. Chief of Police Galvin and he felt that this was a good idea in 2002 and that the City applied for the grant. He indicated that the City has recently been advised that it is one of four communities in California to be awarded a grant under this program. He informed the Council that this program was established under a prior federal administration and that the current administration has not been supporting the program, nor increased funding. However, there is still some

grant monies available. He said that there is no question that the City of Morgan Hill and the police department could benefit by the addition of sworn officers. However, the question is to what extent the City can afford this in light of the sustainable budget strategy. He stated that the Council has already identified a series of steps to cut back on the City's budget, noting that many of these cuts have taken place in the police department. He said that the next step is to identify new revenue sources, on an ongoing basis, to meet what is estimated to be a \$1.3 million ongoing operating deficit. He stated that the federal government is offering to support up to two additional officers at \$150,000 to be allocated over a three-year period in declining amounts. As a grant condition, the City would be required to retain the two additional officers at 100% City cost for a fourth additional year. He noted the staff report identifies the four-year cost to the City at \$790,000. He informed the Council that in the supplemental memorandum, the Chief of Police indicates the City could benefit from additional officers and ways the officers might be used. To the extent the City has additional officers, the amount of overtime expenses could be reduced by having flexible training schedules and opportunities for special assignments, etc. He stated that neither he nor the Chief of Police are convinced that only two additional officers are likely to have a significant impact, but will reduce some of the impacts in overtime costs.

Mayor Kennedy inquired about the ability to save in overtime costs should the City proceed with the COPS grant.

Chief of Police Cumming indicated that last year, the City spent 49% in backfill overtime; filling in for individuals absent (e.g., approximately \$150,000 per year). He said that it would be hard to predict the actual cost of overtime, in detail.

Mayor Kennedy noted that the total cost the City would need to come up with in four years is approximately \$790,000. Dividing this amount by four years would equate to approximately \$197,000 per year. Subtracting \$150,000 from this amount would result in a net cost of approximately \$50,000 per year, in a best case scenario.

City Manager Tewes informed the Council that staff believes that two additional police officers may help reduce overtime costs, but would not eliminate the need for backfill.

Chief of Police Cumming stated that the value of adding two additional police officers would give the City two additional officers in the patrol division and would cut some of the backfill overtime. Two additional officers would provide additional staffing in the field. He informed the Council that police officers work 12 hour shifts and that there is no overlap in time and no opportunity to have officers be briefed and receive important information. Having extra officers would allow scheduling officers to be on the street during shift changes. He noted the City lost three police officers and that one of the issues identified for leaving the department was low staffing levels. This places the City in a need to hire and train replacement officers at a cost of \$30,000-\$40,000. He felt that having a larger police force would result in savings.

Mayor Pro Tempore Tate noted the City has a low ratio of 1 police officer per 1,000 citizens. The grant would improve the ratio a little, but would not get the City close to where it needs to be, county-wise or meet the state average.

Chief of Police Cumming said that some police departments have at least 1 police officer per 1,000. If the City had this ratio, the City would have 36 officers on staff. Some cities chose to apply a standard of 1.5 or more police officers per 1,000. He stated that there is no state or national standard, but these are figures often used. He felt that 1 police officer per 1,000 is good, but felt the City needs more than this to properly staff the City. Should the Council approve the grant, it would bring the City up to 35 police officers.

Council Member Grzan indicated that when he ran for his council seat a year ago, council candidates had an opportunity to meet with staff and the Chief of Police. At that time, he asked Chief of Police Cumming whether he felt the City was adequately staffed. Chief of Police Cumming responded that it was his belief the City was adequately staffed. He inquired whether the Chief still believes the City is adequately staffed.

Chief of Police Cumming indicated that his response was wrong at the time. As he was a relatively new Chief of Police in Morgan Hill, he did not have a correct assessment of the department. It was his belief that the police department is not adequately staffed. It was also his belief that this is a safe community, but that there are indications that things are changing. He noted that property crime has climbed. He felt he needs to pay attention to crime figures and prepare for the future. He said that arrests are up 12% this year; noting that there are criminals and individuals on parole in Morgan Hill. However, there is good news in that violent crimes, homicides and sexual assaults are low.

Mayor Kennedy inquired as to the timing needed to make a decision about the grant in the context of the community conversation to take place with the public; inquiring what services citizens would like to see supported/continued.

Chief of Police Cumming indicated that November 14 is the deadline to submit the grant application. He said that he has commissioned a post workload study for the department that will be completed by December. The study, to be prepared by an independent source, will indicate whether the City is adequately staffed and provide the City with an indication of what it needs to look for in the future. He acknowledged that timing for the grant application is not good.

Mayor Kennedy requested the City Manager address the timing of the community conversation.

City Manager Tewes noted the Council has adopted, as part of its sustainable budget strategy, a suggestion that the City have an extended conversation with the community about what types of services they value and how they should be paid for in light of the City's on going deficit. He indicated that the City has retained the services of a consulting firm with experience in civic engagement issues. He confirmed that this weekend, at the Taste of Morgan Hill, the City will have a booth and invite individuals to talk to the City about the conversation. Staff will provide citizens with background information and talk about the rest of the process; noting that the process will include two extended 8 hour sessions (focus groups). A random sampling of citizens will be invited to come to the City and spend up to 8 hours with staff in a facilitated discussion. He said that citizens will be asked to act as citizen leaders on what is best for the community, not what is best for households, and to hear what their

fellow citizens think about these issues, learn about the consequences of various options, and come to a conclusion. Based upon the group sessions, the City's consultant will complete a workbook. The Council will find out what information is needed and how to present the information during the focus group sessions. He stated that there will be many opportunities, lead by council members and senior staff, to meet with smaller community groups for an hour or two in facilitated conversations. It is the expectation of the Council's Financial Policy Committee that the City would conclude the process in the later part of spring so the Council can make judgments about what, if anything should be placed on a November 2006 ballot.

Mayor Kennedy felt the need for additional police officers is important and real. However, he would like to have community buy into this decision, somehow. Perhaps, the City could ask citizens, at the Taste of Morgan Hill, if they support funding/additional revenues that would support the grant. He felt the Council needs to know if citizens support funding additional police officers.

Mayor Pro Tempore Tate stated that the purpose of using the Taste of Morgan Hill is to educate the public about getting involved in the conversation and participating in an extended dialogue; not asking for opinions or jumping to conclusions. By asking yes or no questions, the City would be asking for a quick opinion. He did not believe this is where the Council was trying to head with the community conversation.

Council Member Carr noted that it was indicated that in 2002, staff felt it would be a great idea to apply for the COPS grant. He requested that staff explain why it believed it was a good idea to apply for the grant in 2002 and what is different today.

City Manager Tewes informed the Council that this is not the first time the City has received a COPS grant. In prior years, the City received a much higher share of the cost from the federal government than is being offered this time. In 2002, at the time the City applied for the grant, staff was mindful that the community was continuing to grow. At that time, the City achieved a staffing level, in the police department, that occurred prior to the major layoffs of the early 1990s. What has happened, since 2002, is that the economy at the state, local and national levels have impacted the City's costs and affected its revenues. He indicated that the City is highly dependent on sales tax revenues and that sales tax revenues are a function on how many individuals are at work and spending money. He noted that Silicon Valley has suffered a job loss of 200,000 and has only slowly started to regain from its peak employment. This has significantly impacted the City's sales tax revenue. Other impacts are associated with the State of California being highly dependent on the Silicon Valley tax base. When this went away, the State came up with a number of strategies to shift monies away from local government to support stated opportunities/responsibilities. As a result of this, the City lost even more revenue. He said that the national economy has affected the City in terms of retirement costs; noting that retirement costs are dependent upon how well investments are doing at the Public Employee Retirement System (PERS). He noted that for three straight years, PERS lost money in the stock market attributable to the national economy. It has been identified, in the sustainable budget strategy, that there would be an ongoing gap between the amount of resources available and the amount needed to maintain existing staffing levels. He said that as the community grows and things change, including police work, existing staffing levels will not be able to provide the same service levels to a growing population. In order to sustain the

existing staffing level, there will be an ongoing need for new revenue in the amount of \$1.2 million per year. In this report, staff has updated its forecast to suggest that this amount would be \$1.3 million per year. If the City accepts the COPS grant, there would be an ongoing revenue need of \$1.5 million per year. It was his understanding that in 1989, the City had 1 or 2 more officers employed than it has today.

Mayor Kennedy opened the floor to public comment.

The following individuals spoke in support of the COPS grant to assist current community public safety needs: Mark Brazeal (two police officers would not solve staffing issues, but is a step in the right direction. Would not accelerate future needs, but helps meet current needs. Police officers are getting tired and requested Council make public safety a priority for this community); David Swing (spoke on behalf of the POA – reinforced that the grant is for present needs, noting that the City has a shortage of police officers and has presented many different concerns; including officer safety and quality of service that can be provided to the community); David Ray (president of POA – concurred that the need for additional police officers is now. In 1990, the City employed 34 sworn officers with a population of approximately 24,000. The ratio was approximately 1.4 police officers per 1,000. Currently, the population is at approximately 36,000 with 33 sworn officers. This equates to .9 officers per 1,000. This places the City at the lowest officer to population ratio in the county with a county average being at 1.5 per 1,000. In order for Morgan Hill to get to this staffing level, the City would need to hire approximately 15 officers. He concurred that there was approximately \$300,000 in overtime paid last year. Half this amount was based on staffing shortages. He was not suggesting that hiring two police officers would solve the overtime pay. However, it would be a step in the right direction and would help reduce overtime. Without adequate public safety services, none of the other city services would succeed. If the community is not protected and is not safe, nothing else would matter. In looking at the grant and trying to allocate funding, he recommended the Council look at where it is spending money and reprioritize them); Donna Macknight (representing the Community Service Officers Association, indicated that all members are in support of the COPS grant; officer burnout results in mistakes and injuries, a big liability to the city. She addressed how other general fund monies are being spent); Michael Brookman (inquired what the City would do when police officers refuse to work overtime); and Gary Cupps.

No further comments were offered.

In response to Council Member Grzan's question, Chief of Police Cumming indicated that the study has just begun, would be completed in December 2005 and cannot be accelerated.

Council Member Sellers expressed concern with the current state of the police department. He felt the needs of the department are becoming more and more acute and that the City is not affectively addressing them. He felt it made sense to move forward with the COPS grant this evening. He felt the City fortunate to have dedicated police officers, a low crime rate, and the ability to use RDA funds to enhance recreational programs and other activities that help contribute to a lower crime rate. He said that he is familiar with the averages in police departments throughout the region. His biggest concern today has to do with organizational effectiveness. He stated that it is difficult to maintain the kind of public safety organization one wants, in the long term, with a staffing level that is not adequate to meet the

needs. He said the City is starting to see a strain in the organization and that it would only get worse. He stated that it was the responsibility of the Council to make the right fiscal decisions. He felt it would be irresponsible for the Council to state this is a great idea and accept the money to do the right thing for the police officers and the community; figuring out how to get the money later. He felt the Council needs to articulate where the funding will come from and how it will set the priorities such that it can pay for them. In the short term, he felt it would be appropriate for the Council to consider some of the City's reserves. He felt the Council's reserve policy is higher than it needs to be. Therefore, he felt it would be appropriate to lower the City's reserve. He noted that this would only give the City a few years and that the City has a longer term problem that needs to be addressed. He stated that citizens have elected officials who make decisions and are held accountable. He recommended the City take this issue to the community and ask if citizens feel the city is at an appropriate police officer ratio or whether they want to increase the ratio to an appropriate level. He did not believe the community conversation would be harmed by accepting the grant and moving forward with two new officers. He felt the City would be enhanced because it would show good fiscal management, acting on the right priority and being creative in the use of federal and other funds. He recommended Council acceptance of the grant and move forward with the officer positions; looking at the longer term decisions that will be crucial to the City's future.

Mayor Kennedy stated that it was his belief that in order to get community support for funding, the City needs to do a good job. He felt the police department needs to continue to do a good job if the City is going to have any chance of building community support for additional funding. He expressed concern with the comments made this evening about the stress being placed on police officers and families. He was confident the City would be able to find ways to close the budget gap and move forward. He urged the Council to support the grant.

Mayor Pro Tempore Tate stated that he supported the grant as well. He felt the City needs 21 additional police officers to get to a 1.5 per 1,000 ratio and meet the County's average. He noted that adding two officers will not meet the 1 officer per 1,000 ratio. He said that when he ran for public office 8 years ago, he stated that public safety was a priority to the community. He wanted to make sure the Council concentrates on this priority. He also expressed concern about the City's fire coverage as well. In his conversations with the Chief of Police today, he was convinced that this is the right thing to do, no matter what other cuts the Council has to look at, as public safety is the number one priority.

Council Member Carr stated that he and Mayor Pro Tempore Tate serve on the Public Safety and Community Services Committee and that they have begun the dialogue about police and fire services. He stated that it is clear to him and should be clear to the community that the City is doing an amazing job. He noted the Council has heard from the Chief of Police and other speakers this evening that the police department is understaffed; and yet, the crime rate is low. He felt the City was doing a tremendous job with the resources available. Further, supporting the grant would be a fiscally prudent approach. Accepting the grant would make a statement to the community, as the City launches the public dialogue, that the Council is setting public safety priorities. As other needs come up throughout the year, the Council needs to be mindful of the priority it is setting this evening as there may be times the Council may have to say "no" to other items that are not number one in terms of priority.

Council Member Grzan noted that the Chief of Police stated a year ago that the police/citizen ratio the City has might be adequate to address the community's needs. However, the Council has heard something different this evening. He noted the City does not have the problems the City of Salinas, San Francisco and others have as the City has a low crime rate. He stated that he has been an advocate for public safety and that the police department can count on his support for this grant. However, he did not believe the grant will alleviate the overtime costs or alleviate the stress being experienced. By taking this action, the City will incur a \$1.5 million annual deficit. Knowing this, he did not believe the Council can vote for facilities or other projects that cannot sustain themselves. He noted that revenue resources are not there and that he was not optimistic that the community will come forward to cover the \$1.5 million debt, or an additional \$1.7 million to add additional services to the community. It was his belief the Council will have difficult choices to make, and that it has a year to talk about these choices. He noted that the City is about to build an indoor recreation center (IRC) with the idea that it will sustain itself. He did not believe that it would sustain itself and that he sees the IRC adding additional debt; causing additional stress to the City Manager and staff on how the City is to balance the budget. He felt the Council will have to make difficult decisions on how to strive for a balanced budget.

Council Member Sellers said that before proposition 13, many jurisdictions had the opportunity to figure out what their service costs would be and set the tax rates accordingly. However, this is not done anymore. He noted that many communities do not stop to state what the various services cost the community, and stated that the City will be embarking on this conversation. He felt it was important for the City to be honest with the public from day one to state what services cost the community.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Approved** Acceptance of a Federal Grant Which Would Provide \$150,000, or 16% of the Costs of Two Additional Police Officers Over the Next Four (4) Years.*

22. WATER RATES

Director of Finance Dilles presented the staff report on water rates and surcharges for perchlorate cleanup over a five-year period of time, beginning in 2003 and ending in January 2007; indicating that the report before the Council was presented to the Utilities and Environment Committee last month. He said that water rates will increase by 2% in January 2006 and another 2% in January 2007. The perchlorate surcharge increase would be 5% in January 2006; raising the rates from 10% to 15%. Should another rate surcharge adjustment take place, it would result in a 20% surcharge in January 2007. Staff recommends Council take no action to change the scheduled increase in rates in January 2006. He informed the Council that the Interim City Attorney is currently aggressively pursuing collection from Olin in order to recover all costs. He noted that the resolution before the Council indicates that should any amounts be recovered from Olin or other sources, those amounts will be credited back to the City's rate customers. He indicated the City has collected almost \$800,000 from Olin Corporation, but that there are over \$5 million in total costs over the entire period projected through June 2009.

Council Member Grzan stated that he serves as the Chair to the Utilities & Environment Committee and that staff has convinced him that it would be prudent to proceed with the current projected cost increases

as scheduled to meet the ongoing costs for perchlorate cleanup. Therefore, the Committee recommends and support staff's recommended action that the Council takes no action at this time.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Grzan and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Took No Action** Regarding Water Rates or Perchlorate Surcharges, thus Keeping the Adopted Series of Rate Adjustments.*

City Manager Tewes indicated that water rates cannot be used to finance other City services, no matter the priority. He said that the fund balances in the water department are not available to support other than water related issues. The same is true with Redevelopment Agency funding. He said that staff has established separate funds and separate accounting activities because it is the law. He indicated that the City' accounting is complex, it is staff's job to try to make it as understandable as possible, and that the City is constrained by law and good accounting practices as is seen with the water rates.

23. FISCAL YEAR 2004-2005 GENERAL FUND YEAR-END ANALYSIS

Budget Manager Thai presented the report on the FY 2004-05 General Fund year-end financial analyses. He said that the general fund revenues totaled \$17.7 million year end expenditures, and encumbrances totaled \$19.3 million; leaving the City with a \$1.5 million deficit. He clarified the impact of the aquatics center. He indicated that the net loss from the aquatics center is \$406,000. He said that this is a different amount than what was presented to the Council on August 8 where staff was projecting a net loss of approximately \$357,000. He indicated that the difference resulted in receiving an additional \$10,000 in revenue, approximately \$40,000 in additional expenses and another \$20,000 in internal service costs charged to Fiscal Year 2004-05.

Council Member Sellers indicated that staff referenced the aquatics center and the \$406,000 deficit. He noted that staff indicated that there were services and expenses that resulted in the increased deficit. He inquired whether there were significant amounts of these items that could potentially be realized in subsequent years. Did the City purchase additional resources that would not cost the City in terms of costs next year (e.g., purchase of merchandize that will be sold next year, etc.)?

Budget Manager Thai indicated that there were no additional savings in Fiscal Year 2005-06.

City Manager Tewes stated that the additional costs being referred to by the budget manager is the difference between the expenses that were in the financial system on July 15, 2005 and the additional invoices that were paid subsequent to July 15 that included some items which, under accounting rules, are not treated the same as inventory. However, these items will be used after June 30, 2005. He indicated that the difference between the estimates presented to the Council on August 3 and today's final numbers is attributed to the invoices paid and new revenues realized subsequent to July 15.

Council Member Sellers indicated that he was not interested in looking backwards as much as he was looking into this fiscal year and getting a sense that the City does not replicate last years deficit. He

noted that it was stated that a significant amount of this debt was incurred through bad management decisions. He noted that the City is moving quickly to rectify the situation. He wanted to know if the City has other things in place to help the situation.

Mayor Kennedy opened the floor to public comment. No comments were offered.

City Manager Tewes informed the Council that these are the final budget numbers which are being submitted to the City's auditors. He said that the City receives an independent audit of its expenses. The auditor provides the Council a certification that the financial statements fairly state the City's financial condition, and that the City has complied with appropriate laws. He stated that this is the report that will be submitted to the auditors for review.

Action: *By consensus, the City Council **Received** and **Filed**.*

25. CYSA LEASE EXTENSION AT OUTDOOR SPORTS COMPLEX

Special Assistant to the City Manager Spier presented the staff report, indicating that at the City Council meeting of July 27, 2005, staff was directed to pursue a list of actions. One of the actions was for staff to pursue a CYSA lease extension until June 2006, looking at extending the lease out to December 2006 if it worked within the City's design plan for the outdoor sports complex. She informed the Council that since that time, staff has met with the new chief executive director for CYSA, Frank Marotto who has indicated that they would like to extend the lease; preferring a longer time period. However, the one year extension would work for CYSA. She stated that CYSA has indicated that in order for them to stay, they would like to see some modifications to the existing facility. It was staff's hope that the City could combine phase one or the master plan with some improvements. She informed the Council that CYSA's priorities are the parking lot improvements at an estimated cost of \$15,000-\$20,000 for rock to fill the potholes. She indicated that at a minimum, the City would need to install a temporary drain at a cost of approximately \$2,000. A temporary drain would drain water out to Condit Road so that it is not sitting and creating more potholes. Additional improvements would result in approximately \$30,000. She clarified that the lease extension would be contingent upon any modifications the City would agree to install. She said that CYSA needs a minimum of eight fields in order to stay within the lease term and eleven fields would be needed to enter into a long term lease. She did ask CYSA as to the impact if there was to be development of the fields in San Bonito County. CYSA responded that they do not believe the fields in San Bonito County would impact them as they are growing separately and developing their own clientele. She requested Council direction as far as the lease is concerned, whether the Council is willing to commit to funding modifications, or whether the lease is to continue as it exists today. She indicated that CYSA understands the City's concept plan and the master plan for the outdoor sports complex and that they are willing to work with the City.

Mayor Kennedy inquired whether improvements could be accomplished from lease payments.

Ms. Spier indicated that one of the suggested ways for paying the requested improvements is to forego the lease payments. She said the lease requires CYSA to improve the parking lot. If the City agrees to provide improvements to the parking lot, it would be at a cost of approximately \$30,000. She felt that

CYSA may be able to install the improvements at a different rate. She informed the Council that CYSA has indicated a willingness to discuss installation of improvements.

Mayor Kennedy felt that it may be a better solution to waive the fees and allow CYSA to install the improvements.

City Manager Tewes said that should the City decide to make an investment in the facility, Redevelopment Agency funds could be used, as appropriate and lawful. If the City waives fees, the City would be waiving general fund revenues.

Mayor Kennedy opened the floor to public comment.

Sunil Patel, owner of Microtel Inn and Suites located on Condit Road, stated that he has been in conversation with David Dworkin who has organized some of the hotel owners. He said that hotel owners are encouraged with the extension of the lease with the soccer community. However, they are concerned about the long term direction of the area in terms of the soccer fields. He informed the Council that hotel owners receive a significant amount of their revenue from soccer tournaments. He said that since 2001, there has been an over capacity of hotel rooms in Morgan Hill and stated that a majority of the hotels in Morgan Hill are hurting. He felt that hotels and the City of Morgan Hill are in partnership as every guest that is brought in results in a 10% transient occupancy tax for the City's general fund. He noted that Morgan Hill is not a destination city. He said that the soccer use is a significant revenue driver that will be lost should the soccer fields be lost. He informed the Council that hotel users are not opposed to a multi use sports facility, but believe that it has to be a revenue generator that brings in guests from outside the city. If the facility is to be used solely by the residents of Morgan Hill, revenues will be lost. He informed the Council that his room rates range from \$59-\$79 per room, per night, plus tax and that he has 60 rooms in his facility.

Jeff Bernadini, speaking on behalf of the Morgan Hill Youth Sports Alliance, stated his support of the lease with CYSA. He said that he has met with representatives of the sports group. He met with Bob Morris, representative of the Morgan Hill Youth Sports League which represents Pony Baseball, soccer, football and volleyball. They discussed how they can reach a compromise and come toward a solution; throwing their support behind the outdoor sports complex. However, they could not come to an agreement. The Youth Sports Alliance agreed to rotate the presidency among the sports groups as a compromise, but this did not work. The Youth Sports Alliance suggested that sports groups form their own league/board and be in charge of scheduling and that the Alliance would handle all the maintenance and operations. This was not agreed upon. He said that both groups are still trying to reach a compromise. He said that at another meeting with the City that included both sports groups, it was announced that the Coliseum Recreation Group (CRG) would no longer be in the formula. He said that the Youth Sports League model for funding the operations and maintenance of the outdoors sports complex dependent heavily on CRG. Without CRG, pony league baseball has written a letter to him and the City stating that they are no longer interested in taking on the operations and maintenance of the outdoor sports complex. He does not know what discussions are taking place with soccer, football, and the volleyball groups. It was his hope that the issues can be resolved. He said that the Youth Sports Alliance is ready to move forward without CRG and that a proposal will be submitted on October 20 and

presented to the Council on October 26. He said that based on current information, the Youth Sports Alliance will need to reevaluate its focus with the outdoor sports complex. The focus is such that the outdoors sports complex has to be self sufficient and pay for itself. He said that the Youth Sports Alliance is starting to move toward this direction. He informed the Council that they would like to talk to CYSA to see if they can use the facility on the weekends for tournament play; leaving the fields available during the week for the community's youth. He felt the City's youth should be the priority and be allowed to use the fields; not an outside agency making money from City property.

No further comments were offered.

Council Member Sellers felt the City needs to install the drainage improvements using Redevelopment Agency funds rather than general funds not to exceed \$30,000.

Action: *Council Member Sellers made a motion, seconded by Mayor Kennedy, to: 1) **Authorize** the City Manager to Extend the Lease Agreement with CYSA through December 2006; 2) **Appropriate** \$30,000 in Redevelopment Agency funds for Parking Lot and Drainage Improvements at the Outdoor Sports Complex site; and 3) **Direct** staff to make such adjustments in the budget, as necessary.*

Council Member Carr stated that he was hesitant about spending any more money on this facility. He supports appropriating \$2,000 for drainage improvements as it would protect an investment the City has made. However, he noted that the rest of the facility would be torn up soon. He recommended the City take a quick path in moving forward with the outdoor sports facility rather than spending \$30,000 in temporary improvements that would be torn out at a later date. He expressed concern with continuing to nickel and dime the Sobrato Soccer CIP budget. He noted the City is receiving several requests for this funding. He felt the City would be wasting this funding source and not realize what the Council spent it on if it continues to allocate funding to other projects. He stated that he was hesitant in spending any more money and that he did not know what the \$30,000 would get the City.

Mayor Kennedy stated that he has a similar concern; however, he noted that the parking lot has been a problem for several years. He felt that CYSA soccer tournaments bring in sufficient revenues and vehicles to justify the expenditure. He stated that he was willing to authorize the use of Redevelopment Agency funds for this purpose and that it was a worthwhile expenditure.

Council Member Grzan also shared Council Member Carr's concerns, but felt that it was important to maintain the City's infrastructures and parking lots.

Council Carr noted that the parking lot and the fields are solely being used by the CYSA group. He felt that CYSA should pay for the improvements as they are not paying much for the lease. He noted that it is being suggested the City credit their lease and that they pay for the improvements with lease savings. This would result in the use of free fields by the CYSA group and the City is repairing a parking lot that would be torn up soon, if the City follows the master plan for the property to move forward. He noted the City invested over \$7.2 million in purchasing the property as the Council kept hearing complaints that Morgan Hill youth were not using these fields. He stated that this is a regional complex, drawing

regional tournament play. He acknowledged that these tournaments may help the hotels, but that the community's youth are not able to use the fields. As long as the City is unable to move forward with the outdoors sports complex, he stated his support with a continued lease agreement. However, he did not believe the City should spend additional money for CYSA's benefit. He felt that it should be CYSA's responsibility to grade the parking lot so that they can use it. If the City needs to install a drainage system to protect the improvements already made for the aquatics center parking lot, those would be improvements for the public good and should be made.

Mayor Kennedy stated that CYSA invests a significant amount of money to maintain the soccer fields. He noted that it has been indicated that CYSA spends approximately \$150,000 in maintenance costs that results in a net loss of \$40,000 per year.

Council Member Carr argued that his son and he do not get to use the fields. He felt that the CYSA organization is already receiving a benefit by the use of the fields. He did not believe that CYSA could claim an investment in City property that is not being used for the public good.

Mayor Pro Tempore Tate agreed with Council Member Carr that the City wants to get use of the fields. However, he did not believe the City has a defined master plan for use of the fields by the community's youth. He noted that CYSA is looking at seeing if there is a way to share the use of the fields where the community can use the fields during the week and CYSA uses the fields during the weekend. The question is what the City will do in the interim until the Council can get the master plan defined and in place. He felt that allowing CYSA use of the fields would be in the best interest of the City, from an economic development standpoint.

Mr. Patel informed the Council that there are 400 motel rooms along Condit Road. He indicated that soccer tournaments bring in \$2.3-\$3.3 million per year to motel and that this equates to approximately \$330,000 in transient occupancy taxes to the City's general fund. He felt that the \$30,000 investment to improve the parking lot is a small investment.

Council Member Sellers agreed with Council Member Grzan that it will take longer to move forward with an outdoor sports complex. He felt that the economic benefit could be used to justify some of the funds going toward parking lot improvements. He noted that the fields are being used regularly and that the transitional use would be easier. The City will have an infrastructure that will have some residual impacts on economic development as well as the community's youth. He shared the concern that the property was not purchased to be used by 90% of youths residing outside the community, but that he wants to keep the momentum going with the interim use.

Council Member Grzan inquired whether CYSA would install the improvements should the City decide not to install the improvements.

Ms. Spier informed the Council that CYSA has indicated that in order for them to stay, the parking lot needs to be improved. If it is not improved, CYSA may locate to another facility. She said that it has been indicated that CYSA has fields in Sacramento and Bakersfield and that there would be an impact to the other locations. However, they would consider moving their tournaments to other locations. As their

lease was about to expire in a month, CYSA has a contingency plan in place as to where they will move, but that their plans were not shared with staff.

City Manager Tewes noted that a couple of weeks ago when the Council considered the master plan for the facility, a number of speakers made representations about their views about economic impacts. He reported to the Council, at the time, that staff has asked the Chamber of Commerce for some data from the hotels. Staff would overlay this data with material from CYSA about how many weekends a year and how many fields they are actually using. He informed the Council that staff has used the data and that staff has prepared a preliminary analysis that was sent back to the Chamber of Commerce. Staff has asked the Chamber of Commerce to review the analysis with the hotel industry. He said that staff made a number of assumptions that were aggressive and that staff has come up with a number that is less than some of the numbers presented to the Council this evening. He said that although the number is significant, it does not support a \$7.6 million investment in the land.

Mayor Kennedy indicated that the soccer complex has been a destination and has brought thousands of individual's to the community's hotels, restaurants and businesses. He felt that this would be a small investment to continue this for the next year.

Council Member Carr inquired whether the \$30,000 maximum contained in the motion includes funding for reseeding and water.

Ms. Spier stated that in speaking with Mr. Marotto, he came up with a list of priorities important to CYSA in order to remain. She noted that this is the only complex CYSA controls as far as scheduling. Therefore, this is the only complex that they have to maintain and operate. She indicated that the priority for CYSA is improvements to the parking lot. Reseeding would be paid by CYSA. Regarding the water cannon, she said that CYSA is piecemealing purchase of equipment based on the duration of the lease. She clarified that the \$30,000 would pay for parking lot and drainage improvements.

Council Member Carr recommended that the motion be flexible enough so that the City can see longer returns based on what the City may see as a future use of the site. He felt the water cannons would be ideal as the City would use them for future uses. However, he noted that this was not the first priority for CYSA.

Ms. Spier said that there were discussions about investing in water cannons. However, without knowing who will operate and maintain the fields and whether CYSA would use the cannons is a difficult question to answer. She said that the City parks department looked at the fields and noted that the grass is in better shape than any of the City's park. However, maintenance works to the advantage of CYSA. She indicated that CYSA's priorities were the drainage improvements, parking lot, water cannons and reseeding. She concurred with the priorities.

Vote: *The motion carried unanimously (5-0).*

26. SANTA CLARA VALLEY HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN (HCP/NCCP) REVISED NON-VOTING

**LOCAL PARTNER AGREEMENT, PLANNING AGREEMENT, AND
APPOINTMENTS TO GOVERNING BODY LIAISON GROUP**

Director of Community Development Molloy Previsich presented the staff report, indicating that on August 3, the Council voted to join the inter jurisdictional planning effort to prepare a habit conservation plan and natural community conservation plan. The Council committed funding toward this effort from various impact funds, community development fund and general plan update funds. She requested the Council authorize execution of the two agreements and that the Council decide whether to appoint one or two representatives to serve on the liaison group.

Council Member Sellers recommended that both members of the Utilities & Environment Committee be appointed to serve on the governing body liaison group.

Mayor Kennedy said that he spoke with Council Member Grzan, chair of the Utilities & Environment Committee, and that he has indicated a willingness to accept one of the seats. He stated that he is willing to accept one of the seats as a representative of the regional planning/transportation commission or either committee.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers , the City Council unanimously (5-0) **Authorized** the City Manager to Execute the Revised Non-Voting Local Partner Agreement, and Rescind the August 3rd Authorization to Execute the Earlier Version of the Local Partner Agreement.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Authorized** the City Manager to Execute the Planning Agreement.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers , the City Council unanimously (5-0) **Designated** Council Member Grzan and Mayor Kennedy to Serve as Representatives on the Governing Body Liaison Group.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

27. MAYOR, COUNCIL MEMBER, AND REDEVELOPMENT AGENCY BOARD MEMBER COMPENSATION

Action: *By consensus, the Council **tabled** this item.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

RECONVENE TO CLOSED SESSION

Interim City Attorney Siegel announced that the City Council would be adjourning to closed session to discuss anticipated litigation, government code section 54956.9 b and c, 3 potential cases.

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered. He adjourned the meeting to Closed Session at 9:58 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 10:24 p.m.

CLOSED SESSION ANNOUNCEMENT

Interim City Attorney/Agency Counsel Siegel announced that no reportable action was taken in closed session.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 10:25 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY